

<b>Application Number</b> 	Application/Control No. 10/687,040	Applicant(s)/Patent under Reexamination CONNORS ET AL.
<b>Document Code - DISQ</b>		<b>Internal Document – DO NOT MAIL</b>

<b>TERMINAL DISCLAIMER</b>	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : 02/14/06	<b>This patent is subject to a Terminal Disclaimer</b>	

**Approved/Disapproved by:**

JH

<b>TERMINAL DISCLAIMER TO OBTAIN DOUBLE PATENTING REJECTION OVER A PRIOR PATENT</b>	Docket Number (Optional) ALTU-530
---	--------------------------------------

In re Application of: Kevin P. Connors et al.

Application No.: 10/687,040

Filed: October 16, 2003

Confirmation No.: 8964

For: TISSUE TREATMENT DEVICE AND METHOD

*(AF)*  
2/15/06

Petitioner, ALTUS MEDICAL, INC., is the owner of 100 percent interest in the instant application as well as U.S. Patent No. 6,666,856, as evidenced by an assignment executed on July 13, 1999, and recorded on May 9, 2005, Reel 016522, Frame(s) 0788. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,666,856. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is attorney of record.

Date: February 14, 2006

  
Michael A. Stallman (Reg. No. 29,444)

- Terminal disclaimer fee under 37 CFR 1.20(d) included.
- PTO suggested wording for terminal disclaimer was
  - unchanged,
  - changed to include specific information about the recordal of the assignment

**STALLMAN & POLLOCK LLP**

Intellectual Property Attorneys

353 Sacramento Street, Suite 2200  
San Francisco, CA 94111Telephone: (415) 772-4900  
Facsimile: (415) 398-2890

**TO:** Examiner Ahmed M. Farah  
Group Art Unit 3795  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**FAX:** (571) 273-4765

**PHONE:** (571) 272-4765

**FROM:** MICHAEL A. STALLMAN  
Telephone: (415) 772-4900 Ext. 101  
Facsimile: (415) 398-2890  
Email: [mstallman@stallmanpollock.com](mailto:mstallman@stallmanpollock.com)

**DATE:** February 14, 2006

**PAGES:** 2 (including cover)

If you did not receive all of the pages in this fax, please contact Tanisha Lawrence-Caceres at (415) 442-4900, Ext. 112.

**OUR FILE NUMBER:** ALTU-530

**Regarding U.S. Appln. No. 10/687,040, filed October 16, 2003****FACSIMILE CERTIFICATE**Date of Deposit: February 14, 2006

I hereby certify that this correspondence is, on the date shown below, being transmitted by facsimile to the Patent and Trademark Office by using the following facsimile number: (571) 273-4765.

STALLMAN &amp; POLLOCK LLP

Date: February 14, 2006

By: \_\_\_\_\_

Tanisha Lawrence-Caceres

The documents accompanying this facsimile transmission contain information from the law firm of STALLMAN & POLLOCK LLP which is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the return of the original documents to us.